

WATER COUNCIL MEETING

NH Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

December 13, 2017
9:00 a.m.

Members present: Chairman Gilbert, Councilors: Beaurivage, Boisvert, Butler, Gegas, Hinds, O'Brien, Rawnsley and Tremblay

Members absent: Councilors: Clark, Hardy, Henderson, and Joubert

Also present were Carolyn Guerdet, Council Clerk and Paula Scott, Legal Unit

Chairman Gilbert called the meeting to order at 9:01 a.m.

1. Approval of Minutes of the November 8, 2017 Meeting

- ***Councilor Tremblay made a motion to accept the November 8, 2017 minutes, second by Councilor Beaurivage. Motion passed unanimously with Chairman Gilbert, Councilors Hinds, and Rawnsley abstaining.***

2. Status of Appeals

Paula Scott presented an update on the following appeals:

I. New Appeals

II. Decision and Orders that need to be written finalized and issued.

Docket No. 16-10 WC (PNA) – Town of Lincoln Appeal

Re: 5/20/16 Administrative Order No. 16-012 WD

Hearing Officer: David Conley assigned on 7/18/16

Status: June 17, 2016 received Notice of Appeal. 6/20/16 issued receipt of Appeal letter. Council accepted the appeal at their July 13, 2016 meeting. 7/13/16 issued Appeal accepted letter. 7/29/16 received Appearance from Attorney General. December 14, 2016 issued Notice of Pre-Hearing Conference scheduled for January 23, 2017 at 11:30 a.m. PHC was held on 1/23/17 with a 2nd PHC scheduled for April 10, 2017 at 9 a.m. April 10, 2017 issued 2nd Pre-hearing Order with deadlines for filing. May 12, 2017 received Assented-to Motion for Extension of Time. 5/15/17 issued letter granting Assented-to Motion. 5/25/17 received Motion for Summary Judgment and Incorporated Memorandum of Law. June 26, 2017 received Objection to and Cross Motion for Summary Judgment and Incorporated Memorandum of Law. July 19, 2017 received Appellant's letter re Intent to submit SurReply to State's reply to Objection. 7/20/17 received DES' Reply to Appellant's Objection to Motion for Summary Judgment. 7/27/17 received Town of Lincoln's SurReply. October 25, 2017 distributed draft Order on Motion for Summary Judgment. Council accepted the Order 11/8/17 and the Order on Appellant's and Appellee's Cross Motions for Summary Judgment granting DES' Motion was issued. December 7, 2017 received Motion for Rehearing. 12/12/17 received Objection to Motion for Reconsideration and/or Rehearing. As it is a question of law the Hearing Officer will address this.

III. Hearings or PHCs Pending

Docket No. 17-01 WC (PNA) – Christopher and Rebecca Crowe Appeal

Subject: 12/21/16 Administrative Order No. 16-033 WD

Hearing Officer: David Conley, Esq., assigned on 3/15/17

Status: January 19, 2017 received Notice of Appeal. 1/20/17 issued Insufficient Appeal letter. February 17, 2017 received Revised Notice of Appeal. March 1, 2017 issued Receipt of Revised Appeal letter. Council to accept or decline appeal at their March 8, 2017 meeting. Council accepted Appeal at their March 8, 2017 meeting and issued Appeal accepted letter. April 6, 2017 issued Notice of Pre-hearing Conference scheduled for May 2, 2017 at 9 a.m. 4/12/17 received Appearance for Atty. Christopher Aslin. May 2, 2017 issued Pre-hearing Order scheduling hearing for September 13, 2017 at 9 a.m. August 14, 2017 issued 2nd Pre-hearing Order scheduling a 3rd PHC for Oct. 30, 2017 at 11:30 a.m. 10/30/17 due to power outage, 2nd PHC was cancelled. November 3, 2017 issued Notice of rescheduled 3rd PHC for November 13, 2017 at 11:00 a.m. 11/16/17 received Withdrawal of Notice of Appeal. Docket now closed.

Docket No. 17-03 WC – Town of Hampton, NH Appeal

Subject: 1/13/17 Administrative Order No. 17-001 WD

Hearing Officer: David Conley, Esq., assigned on 3/15/17

Status: February 10, 2017 received Notice of Appeal. 2/15/17 issued Receipt of Appeal letter. Council to accept or decline appeal at their March 8, 2017 meeting. Council accepted Appeal at their March 8, 2017 meeting and issued Appeal accepted letter. April 6, 2017 issued Notice of Pre-hearing Conference scheduled for May 2, 2017 at 10 a.m. 4/12/17 received Appearance for Atty. Mary Maloney. 4/25/17 received DES' Assented-to Motion to Continue. May 1, 2017 issued letter granting Assented-to Motion to Continue. 5/2/17 issued Notice of Pre-hearing Conference scheduled for May 15, 2017 at 9 a.m. 5/11/17 received DES' Assented-to Motion to Continue Hearing. 5/12/17 issued letter granting Assented-to Motion to Continue and rescheduled PHC to July 17, 2017 at 9 a.m. June 7, 2017 issued letter rescheduling PHC to July 24, 2017 at 10 a.m. July 24, 2017 issued Pre-hearing Order scheduling a 2nd PHC for Oct. 10, 2017 at 9 a.m. and the Hearing for December 13, 2017 at 9 a.m. 10/30/17 due to power outage, 2nd PHC was cancelled. November 1, 2017 issued Notice of rescheduled PHC for December 4, 2017 at 10:30 a.m. 12/4/17 PHC was held, AO may be withdrawn without Prejudice and the Hearing for today is CANCELLED.

Docket No. 17-06 WC – Town of Hampton, NH, North Hampton Water Commission and Town of North Hampton Appeal

Subject: 03/29/17 Administrative Order No. 17-006 WD issued to Wiggin Way home Owners Association AND Aquarion Water Company of NH, Inc.

Hearing Officer: David Conley, Esq., assigned on 5/17/17

Recused member: Councilor Boisvert

Status: April 28, 2017 received Notice of Appeal. May 1, 2017 issued receipt of Appeal letter. Council accepted the appeal at the May 10, 2017 meeting. 5/11/17 issued Appeal accepted letter. 5/16/17 received Assented-To Motion to Consolidate (Docket No. 17-06 WC and Docket No. 17-07 WC). 5/17/17 received Appearance from Atty. Marcia Brown. 5/18/17 received Motion to Intervene. 5/25/17 issued ruling Granting Motion to Consolidate and Motion to Intervene. 5/25/17 issued Notice of Pre-hearing Conference scheduled for June 12, 2017 at 9:30 a.m. 5/29/17 received State's request to Continue Pre-hearing Conference. 6/7/17 issued letter granting request and rescheduling PHC for July 24, 2017 at 9 a.m. 6/13/17 received Request to Continue PHC. 6/15/17 issued letter granting Request to Continue and rescheduling the PHC for Aug. 14, 2017 at 10 a.m. 6/19/17 received Appearance of Attorney Jason Reimers and Assented-To Petition to Intervene. 6/22/17 issued letter granting Petition to Intervene. August 24, 2017 received Parties agreed to Procedural Schedule and Request to Modify PHO. 8/25/17 issued letter granting request. September 8, 2017 received Withdrawal of Appearance from Atty.

Christopher Aslin and received and Appearance from Atty. Mary Maloney. November 1, 2017 received Assented-to Motion for Extension. 11/8/17 issued ruling granting Assented-To Motion for Extension.

Docket No. 17-14 WC Suzanne Fournier et al. Appeal

Re: 09/18/17 approval of Alteration of Terrain Permit N. AoT-1313 issued to the Town of Milford
Hearing Officer: David Conley, Esq., assigned on 11/16/17

Status: October 18, 2017 received Notice of Appeal . 10/19/17 issued Receipt of Appeal letter.

10/31/17 received Motion to Intervene from Town of Milford. November 7, 2017 received Appearance from Atty. Christopher Aslin for the Department. Council accepted Appeal 11/8/17 and Appeal accepted letter issued. 11/21/17 issued Notice of Pre-hearing Conference scheduled for December 11, 2017 at 1 p.m. 11/27/17 received Assented-To Motion to Continue PHC.

11/29/17 issued letter granting Assented-To Motion to Continue PHC to December 19th at 9 a.m.

The appeal will take 2 days and then have the 2nd day for April 11th.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

3. New Business

a. Env-DW 1200 Privately Owned Redistribution Systems

Rick Skarinka and Debra Sonderegger – Drinking Water & Ground Water Bureau

Major public health concern. Readoption of rules of 2009. Revisions to language and cross references to regulations. Questions and comments were made by the Council. A public hearing will be scheduled.

Chairman Gilbert has not spoken with Commissioner Scott regarding the vacancies on the Council. Value of the length of experience and history is a important for the Council. BIA for the Industrial Vacancies, Conservation and Environment – possibly NH Assn of Conservation Commission. Letter to Nature Conservancy? For Nominees. Lakes Region Trust. John will get a letter out to those agencies.

Director Forbes reviewed the 2018 legislative bills that are of interest to the Water Council.

Add Water Council members to PIP's links to bill matrix and legislative calendar.

5. Next Meeting

February 14, 2018 meeting will be at 9 a.m.

6. Adjournment

- ***Councilor Beaurivage made a motion to adjourn, second by Councilor Boisvert. Motion passed unanimously.***

Meeting was adjourned at 10:26 a.m.